2 HARVARD LAW REVIEW, 28; *Dyer* v. *Jacoway*, 42 Ark. 186; *Burt* v. *Timmons*, 29 W. Va. 441; *Brazel* v. *Fair*, 26 S. C. 370; *Cavin* v. *Gleason*, 105 N. Y. 256; *contra*, *Cross's Appeal*, 97 Pa. 471. The case is decided upon "the familiar rule that a trust must result, if at all, at the instant the legal title vests in the grantee, and the use of the money was subsequent to the conveyance of the lot." One citation from Perry on Trusts is the authority for this "familiar" rule. But there is to-day a well recognized doctrine of constructive trusts, one species of which is the so called "resulting trust."

REVIEWS.

DOMESDAY BOOK AND BEYOND: Three Essays in the Early History of England. By Frederic William Maitland, LL.D. Cambridge (Eng.) and Boston. 1897.

We might hardly have known, but for Professor Maitland, that a book may contain between its two covers both good law and good literature, — not in several parcels, but *per my et per tout.* Each new book of his makes this delightful truth the plainer. With his latest work he enters the common ground, the *mark*, of three sciences; for history, economics, and law are alike interested in the field he is tilling, and his results are of high importance to the student of each science. The history, the economy, and the law of the old English boroughs, vills, and manors must henceforth be studied with Professor Maitland's arguments and conclusions in mind. It is, however, the interest of the lawyer in this work that we must chiefly emphasize.

This is an introduction to Pollock and Maitland's already classic History of English Law; though, like many introductions, it is most profitably read, as it was published, after that to which it leads. It has the good qualities, both legal and literary, of the larger work; though it must be confessed that its conclusions are oftener reached by enlightened guess-work since less evidence is at hand.

The student of legal history will here find our land law in the making. He is familiar with the process in other branches of the law. The law of torts, for instance, has become a body of legal principle before his very eyes, wrought out of a few original writs and an enlightened statute by courts whose decisions are found in modern reports. In the law of torts the process is almost finished, in the law of contracts it is hardly begun. Each contract is still treated as an independent obligation, subject to few general rules after it has once come into being; one can still oblige himself as he will. The premature attempt of Lord Holt and Sir William Jones to force bailments into a Procrustean bed utterly failed. But the law of real property seemed to have been wrought into an absolute uniformity in the prehistoric time of our law. Tenures when we first knew them were fixed and few; servitudes were conformable to known types, and novel ones could not be created; manors had a rigid organization; ranks of men had established rights; and seignorial justice appeared to be a settled institution. Even equity, which still sometimes gives effect to special agreements touching land, will not go far afield. But in this study of Domesday Book, and the "beyond" which came before it, we see a state of affairs where every dealing with land was special, tenures were as various as tenants, and freedom and slavery were relative terms. We see how entire freedom of contract in dealing with land resulted in

the establishment of a few chief types, and these were at last merged in the feudal system as we know it. We see, in short, how true law is formed, by the persistence of that one of all usual customs which is best adapted to the existing society. Law like life is a survival of the fittest.

Professor Maitland seems fully to have established his important thesis as to the nature of the Domesday manor. This was not at all the manor we know, with its technical characteristics; it was merely the geldable unit, whether large or small. It might be the enormous seat of a magnate, with dependencies sprawling through a half-score hundreds, it might be the few acres of a poor peasant; the home of every man who paid his geld to the King's officers directly, not through another subject, was a manor-house; of interest to the King because he must send there to collect taxes.

All disputed questions with regard to early institutions are adequately discussed. The borough, the vill, sake and soke, folk-land and book-land are illuminated in turn. Professor Maitland is perhaps the first author who in the light of modern scholarship takes the old view of the vill. He believes in a settlement of independent freemen (not a community in a legal sense) each owning his land in severalty and cultivating a hide of 120 acres, be the acres larger or smaller. Whether we agree with this conclusion or not, we must rejoice that it is at last supported by a well equipped scholar, and—may we not add, with the egotism of our own science — in a thoroughly lawyerlike way.

Indeed the method of investigation is the very life of the work. It is the sound method of working gradually back from the known to the unknown. We read our Bede and our Tacitus, not in the electric glare of modern scholarship, which destroys the finer shading, but with the candle of Bracton and the rushlight of Domesday. "If, for example, we introduce the *persona ficta* too soon, we shall be doing worse than if we armed Hengest and Horsa with machine guns, or pictured the Venerable Bede correcting proofs for the press; we shall have built upon a crumbling foundation. The most efficient method of protecting ourselves against such error is that of reading our history backwards as well as forwards, of making sure of our middle ages before we talk of the 'archaic,' of accustoming our eyes to the twilight before we go out into the night." J. H. B.

SELECT CASES IN CHANCERY. 1364 to 1471. Edited for the Selden Society, by William Paley Baildon. London: Bernard Quaritch. 1896.

This latest publication of the Selden Society is a solid contribution to the history of equity jurisdiction. In his excellent introduction the editor has indexed the cases in this volume, and also the earliest cases in the first two volumes of the Calendars of the Proceedings in Chancery, published in 1827. The reader is thus enabled to fix pretty clearly the beginning of many doctrines in equity. For example, case 83 (1396–1403) is the earliest instance of a bill for specific performance, and case 142 (1456) is the first case in which it appears that the plaintiff obtained a decree upon such a bill. It is noticeable that there are only four such bills in the century covered by this volume. The earliest bills against feoffees to uses were either at the very end of the fourteenth or at the beginning of the fifteenth century. As there is no mention of a